

TIMOTHY D. BARROW, ESQ.
Grist Mill Square, Suite 3
148 Main Street
Lebanon, New Jersey 08833
(908) 236-2229
Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ASPEN SPECIALTY INSURANCE COMPANY,

Document Electronically Filed

Plaintiff, : CIVIL ACTION No.

v.

EVERGREEN MARINE CORP. (TAIWAN) LTD.,
EVERGREEN MARINE (HONG KONG) LIMITED,
EVERGREEN MARINE (SINGAPORE) PTE. LTD.,
collectively trading as "EVERGREEN LINE",

VERIFIED COMPLAINT

Defendants. :

The Plaintiff herein, by its attorney, Timothy D. Barrow, complaining of the above Defendants, verifies upon information and belief as follows:

THE PARTIES

1. At and during all times hereinafter mentioned, Plaintiff ASPEN SPECIALTY INSURANCE COMPANY, is a corporation or other business entity duly organized and existing under and by virtue of the laws of the State of North Dakota with an office and place of business at 101 Hudson Street, Jersey City, New Jersey 07302.

2. Defendants EVERGREEN MARINE CORP. (TAIWAN) LTD., EVERGREEN MARINE (HONG KONG) LIMITED, and EVERGREEN MARINE (SINGAPORE) PTE. LTD. (hereinafter 'EVERGREEN LINE', are corporations or other business entities organized and existing under and by virtue of the laws of another country and do business in the State of New

Jersey by and through its general agents, Evergreen Shipping Agency (America) Corp., which has an office and place of business located at One Evertrust Plaza, Jersey City, New Jersey 07302.

3. Plaintiff brings this action as the subrogated insurer of the subject cargo in suit and is entitled to maintain this action and also does so for and on behalf of the shipper, consignee and/or owner of the subject cargo as their interests may appear.

4. Defendants “EVERGREEN LINE” are vessel operating common carriers and/or contract carriers of cargo for hire and are otherwise bailees of cargo entrusted in their care, custody and/or control.

JURISDICTION AND VENUE

5. Plaintiff’s causes of action are admiralty and maritime claims within the original jurisdiction of this Honorable Court pursuant to 28 U.S.C. § 1333, and also arises under Federal Rules of Civil Procedure 9(h) as well as this Court’s supplemental jurisdiction pursuant to 28 U.S.C. § 1367.

6. Venue is proper and appropriate for this action pursuant to 28 U.S.C. § 1391(b) and (d) as the named Defendants are foreign companies and/or aliens, and Defendants regularly conduct business in New Jersey and furthermore are subject to personal jurisdiction at the time of commencement of suit in this District.

PLAINTIFF’S CAUSE(S) OF ACTION AGAINST DEFENDANTS

7. Plaintiff repeats and realleges the allegations set forth in paragraphs numbered 1

through 6 of the within Verified Complaint in their entirety, as if set forth herein at length.

8. On or about July 3, 2011, Defendants “EVERGREEN LINE” (or one of said Defendants) issued or caused to be issued bill of lading numbered EGLV156100185551 and/or other receipts for the transport by ocean and overland of 630 cartons of frozen breaded white shrimp that were to be loaded aboard the M/V EVER APEX Voyage 0015-350N on or about this same date at Zhanjiang, China and subsequently trans-shipped aboard the M/V EVER UNICORN V. 0572-077E for subsequent discharge at Los Angeles, CA and then delivery at Buena Park, CA, in consideration of certain freight paid and received by said Defendants or one of said Defendants.

9. The subject cargo of frozen breaded white shrimp more fully described in the said bill of lading, and/or receipts were delivered to and received in good order and condition by the Defendants (or one of said Defendants) at Zhanjiang, China on or before July 3, 2011, and was subsequently loaded aboard the above-named vessels (or other vessels) for ocean transport to and discharge at Los Angeles, CA at which time Defendants (or one of the said Defendants) continued to exercised care, control and custody over the subject cargo through to the time of discharge and delivery in the United States.

10. Thereafter the vessel EVER UNICORN (or other vessel) arrived at the port of discharge at Los Angeles, CA on or about July 25, 2011 and Defendants (or one of the said Defendants) delivered same on or about August 1, 2011 by truck to Buena Park, CA in a damaged or otherwise unsound condition as a result of defrosting and crystallization of the product or other factors making the cargo unacceptable for sale as originally intended.

11. The Defendants’ (or one of the said Defendants) failure to deliver the subject cargo in the same good order, quantity and condition as received at Zhanjiang, China was caused by the Defendants’ (or one of the said Defendants) and/or their sub-contractors’, agents’, and/or servants’ breaches of contract and/or warranty, negligence, unreasonable deviation(s), and/or

reckless conduct or omissions to properly receive, store, load, stow, lash, carry, discharge, store, transport, deliver and care for the subject cargo. By reason of such loss, damage and otherwise unsound condition of the subject cargo, the said Defendants (or one of the said Defendants) breached, failed and violated their duties and obligations as carriers, bailees, and were otherwise at fault.

12. Plaintiff and its insured(s) have duly performed all duties and obligations on their part to be performed.

13. By reason of the premises, Plaintiff has sustained damages as nearly as same can estimated, no part of which has been paid although duly demanded, in the total amount of \$52,339.77.

WHEREFORE, Plaintiff demands:

1. That process in due form of law according to the practice of this Court may issue against the named Defendants;

2. That if any Defendant cannot be found within this District or does not admit or accede to the jurisdiction of this Court, then that all of its property within this District, as shall be described in a subsequent affidavit, be attached in the sum set forth in this Verified Complaint pursuant to the rules and practices of this Court pertaining to maritime attachment and/or garnishment, with interests and costs;

3. That a decree and judgment may be entered in favor of Plaintiff against the Defendants for the amount of Plaintiff's sum total damages in the amount of \$52,339.77 individually, jointly and severally, together with pre-judgment and post-judgment interest and costs; and

4. That this Court will grant the Plaintiff such other and further relief as may be just and proper.

s/ Timothy D. Barrow
TIMOTHY D. BARROW
Attorney for Plaintiff

Dated: July 31, 2012
Lebanon, New Jersey

ATTORNEY VERIFICATION/CERTIFICATION

I, TIMOTHY D. BARROW, an Attorney at Law of the State of New Jersey and a Member of the Bar of this Court verify, certify, and say:

I am the attorney for the Plaintiff herein; I have read the foregoing Verified Complaint and know the contents thereof; and that the same is true to my knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters, I believe it to be true.

The reason this Verification/Certification is made by undersigned counsel and not by Plaintiff is that Plaintiff's corporate officers and/or managers familiar with this matter are not now present within this District. In light of these circumstances, I make this Verification on their behalf.

The sources of my information and the grounds for my belief as to those matters stated in the Verified Complaint, to be alleged on information and belief, are documents and records in my file and communications with my client and its representatives.

I hereby verify and certify that the foregoing statements made by me are true. I am aware that if any of these statements made by me are willfully false, I am subject to contempt of Court.

s/ Timothy D. Barrow
TIMOTHY D. BARROW
Attorney at Law – State of New Jersey

DATED: July 31, 2012
Lebanon, New Jersey